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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,114	06/23/2003	Sivakumar Gopalnarayanan	60,246-213/10646	9103
26096	7590	10/25/2004	EXAMINER	
CARLSON, GASKEY & OLDS, P.C. 400 WEST MAPLE ROAD SUITE 350 BIRMINGHAM, MI 48009				DOERRLER, WILLIAM CHARLES
		ART UNIT		PAPER NUMBER
				3744

DATE MAILED: 10/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/602,114	GOPALNARAYANAN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	William C Doerrler	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 10-4-2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,6-13 and 25-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,11-13 and 25-27 is/are rejected.
- 7) Claim(s) 6-10 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-3,11-13 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Powell et al in view of Lorentzen et al.

Powell et al discloses applicants' basic inventive concept, a refrigeration system which uses the air temperature (76 measures outside air temperature and 74a and b measure recirculating air temperature) to control a variable speed fan which blows air over the heat accepting heat exchanger of the system (see column 6 lines 36-41), substantially as claimed with the exception of using the air flow control system in a transcritical refrigeration system which uses carbon dioxide as the refrigerant. Lorentzen et al

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shows carbon dioxide transcritical refrigeration systems to be old in the refrigeration art, with separator/receiver 16 seen as an accumulator since gas is stored to ensure a constant supply to the compressor. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Lorentzen et al to use a transcritical system to provide efficient refrigerant with an environmentally safe refrigerant while still providing efficiency improvements derived from controlling the air over the heat accepting heat exchanger of Powell. In regard to claim 12, specific threshold temperatures are seen as a matter of obvious design choice for an ordinary practitioner depending on the environment and use of the system.

Claims 1-3,11-13,25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marsteller in view of Lorentzen et al.

Marsteller discloses applicants' basic inventive concept, a refrigeration system which uses the air temperature (see lines 23-25 of column 3) to control a variable speed fan which blows air over the heat accepting heat exchanger of the system (detailed description found in column 3 line 59-column 4 line 24), substantially as claimed with the exception of using the air flow control system in a transcritical refrigeration system which uses carbon dioxide as the refrigerant. Lorentzen et al shows carbon dioxide transcritical refrigeration systems to be old in the refrigeration art, with separator/receiver 16 seen as an accumulator since gas is stored to ensure a constant supply to the compressor. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Lorentzen et al to use a transcritical system to provide efficient refrigerant with an environmentally safe

refrigerant while still providing efficiency improvements derived from controlling the air over the heat accepting heat exchanger of Marsteller. In regard to claim 12, specific threshold temperatures are seen as a matter of obvious design choice for an ordinary practitioner depending on the environment and use of the system.

Claims 1-3,11-13 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartlett in view of Lorentzen et al.

Bartlett discloses applicants' basic inventive concept, a refrigeration system which uses the air temperature (see the last 2 lines of the abstract) to control a variable speed fan which blows air over the heat accepting heat exchanger of the system (see column 4 lines 5-19), substantially as claimed with the exception of using the air flow control system in a transcritical refrigeration system which uses carbon dioxide as the refrigerant. Lorentzen et al shows carbon dioxide transcritical refrigeration systems to be old in the refrigeration art, with separator/receiver 16 seen as an accumulator since gas is stored to ensure a constant supply to the compressor. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Lorentzen et al to use a transcritical system to provide efficient refrigerant with an environmentally safe refrigerant while still providing efficiency improvements derived from controlling the air over the heat accepting heat exchanger of Bartlett. In regard to claim 12, specific threshold temperatures are seen as a matter of obvious design choice for an ordinary practitioner depending on the environment and use of the system.

***Allowable Subject Matter***

Claims 6-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

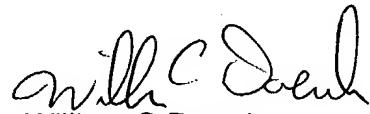
***Response to Arguments***

Applicant's arguments with respect to claims 1-3,11-13 and 25-27 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C Doerrler whose telephone number is (703) 308-0696. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise Esquivel can be reached on (703) 308-2597. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William C Doerrler  
Primary Examiner  
Art Unit 3744

WCD